

Faculty Grievance Committee Training

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Training

The Provost and Vice President for Academic Affairs, in cooperation with the Executive Committee Chairperson, every three years beginning in Fall 2011, will provide formal training of the Grievance Pool members. (*University Handbook 246.14.5.2*)

The training will typically include a review of the Grievance Policies, procedures, and responsibilities of Faculty Grievance Committee members.

Plan for the Session

- Foundations of Grievance Proceedings
 - Due Process, Privacy, and Confidentiality
- Faculty Grievance Policies and Procedures
- Faculty Grievance Committee Member Responsibilities
- Contextual Elements and Grievance Situations
 - Discrimination and Cultural Influences
- Grievance Examples – *Inside Higher Ed*
- Questions and Discussion



Foundations for Grievance Policies and Procedures

- The United States Constitution
- ISU University Handbook Faculty Grievance Policy

U.S. Constitution - Bill of Rights

- Due Process

- 5th & 14th Amendments – “No person shall be. . . deprived of life, liberty, or property, without due process of law. . . .”
- 6th Amendment – indicates the right to a “speedy,” “impartial,” determination and the right to know the “nature and cause of accusations,” “be confronted with witnesses against him [sic],” “have witnesses in his [sic] favor,” and have “assistance. . .for his [sic] defense.”

- Due Process Rights in the Faculty Hearing Setting
 - Adequate notice of the time, place, and concerns to be addressed in the hearing
 - An opportunity to confront and question witnesses against one's position
 - The opportunity to present evidence and call witnesses in support of one's position
 - A fair and impartial panel to hear the concerns
 - A decision based on the evidence
 - A record of the proceedings
 - A provision for review of the decision

• Rights Inferred from the Constitution

• Right to Privacy

- 4th Amendment – “. . . to be secure in their persons, houses, papers, and effects”
- A deeply engrained belief in U.S. society that individuals have the right to determine with whom personal information is shared.



- Confidentiality

- The professional duty to keep another person's private information private.
- Flows from the right to privacy
- Information acquired in grievance proceedings **CANNOT** be shared with others.




Faculty Grievance Policy

- Per University Handbook Section 246.14
- The faculty has primary responsibility for such fundamental areas as curriculum, methods of instruction, research/creativity, faculty status, and those aspects of student life which relate to the educational process.

- All faculty members who believe a decision adversely affects these responsibilities or the financial, intellectual, or pedagogical aspects of their appointments and results from a
 - violation of University policy* (i.e., arbitrary, punitive, or capricious application of policies regarding work assignment, or other procedures),
 - violation of academic freedom, or*
 - inadequate consideration* (this might be with regard to a working condition or assignment),

may petition the appropriate faculty committee for redress.

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- All faculty members are entitled to due process, including a faculty hearing of record and the opportunity to confront any adverse witnesses and/or to respond to adverse information.

APPEALS ADDRESSED ELSEWHERE

- Procedures other than this one exist in the University for decisions related to:
 - Faculty Dismissal (i.e., questions of faculty fitness)
 - Reappointment, tenure, and promotion
 - Pay-for-Performance
 - Conduct involving illegal discrimination (e.g., protected classes of individuals)



Before a University
Level Grievance
Hearing Occurs

- College/Library Grievance Procedures
- University Level Grievance Eligibility
 - **Appeal** of College/Library Decisions
 - Adequacy of Evidence
 - Due Process Errors
 - New Evidence
 - **Primary Grievance** not in jurisdiction of any one College/Library

- Grievance Initiation (within 20 days)
 - Grievance Form A
- Executive Committee Determination
 - Notify Respondent(s)
 - Written Respondent Response in 7 days
 - Hearing and/or Mediation Decision
- Faculty Affairs Committee (FAC)
 - Mediation begins within 7 days
 - Mediation complete within 10 days

- Committee Convened (within 15 days)
 - FAC Chair identifies 9 from the pool of 20
 - Exclusions by each party
 - Selection of the 5 person panel
 - Materials from Complainant & Respondent
- Initial Hearing Committee Meeting
 - Committee Elects Chair
 - All parties receive materials
 - Hearing/review date set (within 15 days)



The Hearing

- Election to Waive Hearing
- Commencement of the Hearing
 - Recorded and Transcribed
 - Notice of Rules and Procedures
 - Not proceedings at law
 - Closed Proceeding
 - No Right to Counsel
 - Faculty Advisor



- Hearing Process

- Complainant's/Grievant's Case

- 10 minutes/respondent – 30 minutes max

- Committee Questions

- Respondent's Case

- 10 minutes/respondent – 30 minutes max

- Committee Questions

- Witnesses (one at a time)

- Hearing Process (con't)
 - Questions by Committee Members ONLY
 - Parties may *suggest* questions through the Committee Chairperson
 - Case Summation – Respondent(s)
 - 10 minutes each – maximum of 30 minutes
 - Case Summation – Complainant
 - 10 minutes/respondent – maximum 30 min.



After the Hearing



Deliberations & Decision Making

- Which facts are supported by evidence
- Apply university policies to the facts
- Render a decision

Grievance Committee Findings

- Reported in writing (within 7 days)
 - Findings of fact
 - Conclusions based on facts
 - Recommendations
- Based on a simple majority
- Dissenting opinions may be included
- Reported to all parties (within 7 days)

The Final Determination

- Made by the President
- Presented in writing within 10 days
- All materials retained 5 years by Faculty Senate

Member Responsibilities

- Presence – at all hearing and deliberation meetings
- Fairness – hear all sides
- Impartiality – allegiance is to the larger ISU community not one's college/department/program
- Active listening - to verbal and non-verbal elements
- Active questioning – to clarify facts and concerns
- Discern the relevant facts
- Know the current relevant university policies
- Make evidence-based decisions
- Maintain confidentiality – during and after

Contextual Elements

Contributors to fair and impartial decisions:

- ISU's Equal Employment Opportunity and Affirmative Action Policies
- ISU's Commitment to Diversity and Inclusion

Equal Employment Opportunity and Affirmative Action Policy

Indiana State University does not discriminate on the basis of sex, race, age, national origin, sexual orientation, religion, disability, or veteran status.

- Preventing Employment Discrimination Training @ <http://training.newmedialearning.com/ped/indstate/>

What constitutes discrimination?

- Different or Unfair treatment
- Adverse action
 - Based upon someone's status in a protected class:
 - Race
 - Sexual Orientation
 - Sex (Gender Identity)
 - National origin
 - Religion
 - Veteran status
 - Age
 - Disability

What constitutes sexual harassment?

- The unwelcome imposition of sexual attention
- Any conduct, physical, or verbal
- Sexual in nature
- Unreasonably interferes with education or work performance

- Policy Statement @

<http://www.indstate.edu/aao/sexharassment.htm>

- Preventing Sexual Harassment Training @

<http://training.newmedialearning.com/psh/indstate/>

What does the ISU Americans with Disabilities Act (ADA) Policy say?

- Prohibits discriminatory actions against **QUALIFIED** individuals with disabilities
- Reasonable Accommodation(s)
 - Upon receipt of medical documentation
- ISU Disability Accommodation Policy @ <http://www.indstate.edu/aao/disablty-accmmpolicy.htm>

ISU's Commitment to Diversity and Inclusion

- Diversity enhances ISU's educational and interpersonal environment
- “Identity Packages” of participants
- Sense of connection, power, belongingness, and voice
- Effect of adapting to ‘fit in’
- What is presented and “the rest of the story”
- The Welcoming Diversity training module @ <http://training.newmedialearning.com/diversity/indstate/choice.htm>

During a Grievance Hearing

Do

- Refrain from choosing sides
- Thoroughly listen to all sides/ parties
- Ask questions for clarification
- Seek assistance (e.g., Human Resources, Affirmative Action, Legal Affairs)

Don't

- Make assumptions
- Consider gossip/rumors
- Discuss the situation with others on or off campus



Food for thought
from

Inside Higher Ed



Whistle Blower
Tough Grader
Eminent Scholars
Email Sociology Activity

Grievances involve people who are upset, who feel they have been wronged, who are in pain and angry, and the other side is often also angry and in pain...

Laurie Mintz

University of Missouri-Columbia



Questions and Discussion